

ASSEMBLY, No. 1929

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman SERENA DIMASO

District 13 (Monmouth)

SYNOPSIS

Revises 20% affordable housing set-aside requirement for newly-constructed housing developments within regional planning entities.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning affordable housing requirements for regional
2 planning entities and amending P.L.2008, c.46.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 18 of P.L.2008, c.46 (C.52:27D-329.9) is amended
8 to read as follows:

9 18. a. Notwithstanding any rules of the council to the contrary,
10 for developments consisting of newly-constructed residential units
11 located, or to be located, within the jurisdiction of any regional
12 planning entity required to adopt a master plan or comprehensive
13 management plan pursuant to statutory law, including the New
14 Jersey Meadowlands Commission pursuant to subsection (i) of
15 section 6 of P.L.1968, c.404 (C.13:17-6), the Pinelands Commission
16 pursuant to section 7 of the "Pinelands Protection Act," P.L.1979,
17 c.111 (C.13:18A-8), the Fort Monmouth Economic Revitalization
18 Planning Authority pursuant to section 5 of P.L.2006, c.16
19 (C.52:27I-5), or its successor, and the Highlands Water Protection
20 and Planning Council pursuant to section 11 of P.L.2004, c.120
21 (C.13:20-11), **but excluding joint planning boards formed pursuant**
22 **to section 64 of P.L.1975, c.291 (C.40:55D-77), there shall be**
23 **required to be reserved for occupancy by low or moderate income**
24 **households at least 20 percent of the residential units constructed, to**
25 **the extent this is economically feasible such developments shall be**
26 **considered as part of the municipality wherein situated and**
27 **available as an area subject to that municipality's fair share**
28 **affordable housing obligation.**

29 b. Subject to the provisions of subsection d. of this section, a
30 developer of a project consisting of newly-constructed residential
31 units being financed in whole or in part with State funds, including,
32 but not limited to, transit villages designated by the Department of
33 Transportation and units constructed on State-owned property, shall
34 be required to reserve at least 20 percent of the residential units
35 constructed for occupancy by low or moderate income households,
36 as those terms are defined in section 4 of P.L.1985, c.222
37 (C.52:27D-304), with affordability controls as required under the
38 rules of the council, unless the municipality in which the property is
39 located has received substantive certification from the council and
40 such a reservation is not required under the approved affordable
41 housing plan, or the municipality has been given a judgment of
42 repose or a judgment of compliance by the court, and such a
43 reservation is not required under the approved affordable housing
44 plan.

45 c. (1) The Legislature recognizes that regional planning entities
46 are appropriately positioned to take a broader role in the planning
47 and provision of affordable housing based on regional planning

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 considerations. In recognition of the value of sound regional
2 planning, including the desire to foster economic growth, create a
3 variety and choice of housing near public transportation, protect
4 critical environmental resources, including farmland and open space
5 preservation, and maximize the use of existing infrastructure, there
6 is created a new program to foster regional planning entities.

7 (2) The regional planning entities identified in subsection a. of
8 this section shall identify and coordinate regional affordable
9 housing opportunities in cooperation with municipalities in areas
10 with convenient access to infrastructure, employment opportunities,
11 and public transportation. Coordination of affordable housing
12 opportunities may include methods to regionally provide housing in
13 line with regional concerns, such as transit needs or opportunities,
14 environmental concerns, or such other factors as the council may
15 permit; provided, however, that such provision by such a regional
16 entity may not result in more than a 50 percent change in the fair
17 share obligation of any municipality; provided that this limitation
18 shall not apply to affordable housing units directly attributable to
19 development by the New Jersey Sports and Exposition Authority
20 within the New Jersey Meadowlands District.

21 (3) In addition to the entities identified in subsection a. of this
22 section, the Casino Reinvestment Development Authority, in
23 conjunction with the Atlantic County Planning Board, shall identify
24 and coordinate regional affordable housing opportunities directly
25 attributable to Atlantic City casino development, which may be
26 provided anywhere within Atlantic County, subject to the
27 restrictions of paragraph (4) of this subsection.

28 (4) The coordination of affordable housing opportunities by
29 regional entities as identified in this section shall not include
30 activities which would provide housing units to be located in those
31 municipalities that are eligible to receive aid under the "Special
32 Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), or
33 are coextensive with a school district which qualified for
34 designation as a "special needs district" pursuant to the "Quality
35 Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), or at
36 any time in the last 10 years have been qualified to receive
37 assistance under P.L.1978, c.14 (C.52:27D-178 et seq.) and that fall
38 within the jurisdiction of any of the regional entities specified in
39 subsection a. of this section.

40 d. Notwithstanding the provisions of subsection b. of this
41 section, or any other law or regulation to the contrary, for purposes
42 of mixed use projects or qualified residential projects in which a
43 business receives a tax credit pursuant to P.L.2007, c.346 (C.34:1B-
44 207 et seq.) or a tax credit pursuant to section 35 of P.L.2009, c.90
45 (C.34:1B-209.3), or both, an "eligible municipality," as defined in
46 section 2 of P.L.2007, c.346 (C.34:1B-208), shall have the option of
47 deciding the percentage of newly-constructed residential units
48 within the project, up to 20 percent of the total, required to be

1 reserved for occupancy by low or moderate income households.
2 For a mixed use project or a qualified residential project that has
3 received preliminary or final site plan approval prior to the effective
4 date of P.L.2011, c.89, the percentage shall be deemed to be the
5 percentage, if any, of units required to be reserved for low or
6 moderate income households in accordance with the terms and
7 conditions of such approval.
8 (cf: P.L.2011, c.89, s.5)
9

10 2. This act shall take effect immediately.
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13 STATEMENT
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15 This bill would revise the current 20% affordable housing set-
16 aside requirement in the case of a newly constructed housing
17 development situate within a regional planning entity.

18 P.L.2008, c.46 required that within a newly constructed housing
19 development located within the jurisdiction of any regional
20 planning entity required by law to adopt a master plan or
21 comprehensive management plan, including the New Jersey
22 Meadowlands Commission, the Pinelands Commission, the Fort
23 Monmouth Economic Revitalization Planning Authority or its
24 successor, and the Highlands Water Protection and Planning
25 Council, at least 20% of the residential units constructed must be
26 reserved for occupancy by low or moderate income households, to
27 the extent that this set-aside is economically feasible.

28 This bill would remove that 20% low or moderate income set
29 aside and require that those newly constructed housing
30 developments be considered within the fair share obligation of the
31 municipality wherein they are located and subject to that
32 municipality's affordable housing requirements.